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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
ALEXANDRIA DIVISION

MICHAEL HARRIS

DOCKET NO. 12-CV-1879; SEC. P

VERSUS

JUDGE DEE D. DRELL

LYNN COOPER, ET AL.

MAGISTRATE JUDGE JAMES D. KIRK

REPORT AND RECOMMENDATION

Pro se plaintiff Michael Harris, proceeding in forma pauperis, filed the instant civil rights complaint pursuant to 42 U.S.C. §1983. Plaintiff is an inmate at the Avoyelles Correctional Center in Cottonport, Louisiana. He complains that he received too much of his prescribed medication from Officer Lemoine. Plaintiff names as defendants Warden Lynn Cooper, K. Lemoine, the Medical Staff at AVC, and the Louisiana Department of Corrections.

This matter has been referred to the undersigned for review, report, and recommendation in accordance with the provisions of 28 U.S.C. §636 and the standing orders of the Court.

Law and Analysis

Federal Rule of Civil Procedure Rule (FRCP) 41(b) permits dismissal of claims "[i]f the plaintiff fails to prosecute or to comply with ... a court order..." The district court also has the inherent authority to dismiss an action sua sponte, without motion by a defendant. See Link v. Wabash R.R.Co., 370 U.S. 626, 630-31 (1962). "The power to invoke this sanction is necessary in order to prevent undue delays in the disposition of pending cases and to avoid congestion in the calendars of the [d]istrict [c]ourts."

McCullough v. Lynaugh, 835 F.2d 1126, 1127 (5th Cir. 1988).

On January 29, 2013, Plaintiff was ordered to amend his complaint within thirty days - by February 28, 2013. [Doc. #11] Plaintiff filed a motion for extension of time on February 28, 2013 [Doc. #12], which the Court granted. Plaintiff was ordered to submit the amended complaint by March 22, 2013. [Doc. #12] More than one month has passed since the most recent due date, and Plaintiff has still failed to comply with the order.

Conclusion

THEREFORE, IT IS RECOMMENDED that Plaintiff's complaint be **DISMISSED WITHOUT PREJUDICE** In accordance with the provisions of FRCP 41(b).

Objections

Under the provisions of 28 U.S.C. §636(b)(1)(C) and Fed.R.Civ.P. 72(b), the parties have fourteen (14) calendar days from service of this Report and Recommendation to file specific, written objections with the clerk of court. No other briefs or responses (such as supplemental objections, reply briefs etc.) may be filed. Providing a courtesy copy of the objection to the magistrate judge is neither required nor encouraged. Timely objections will be considered by the district judge before he makes his final ruling.

FAILURE TO FILE WRITTEN OBJECTIONS TO THE PROPOSED FINDINGS, CONCLUSIONS, AND RECOMMENDATIONS CONTAINED IN THIS REPORT WITHIN

FOURTEEN (14) CALENDAR DAYS FROM THE DATE OF ITS SERVICE SHALL BAR AN AGGRIEVED PARTY, EXCEPT UPON GROUNDS OF PLAIN ERROR, FROM ATTACKING ON APPEAL THE UN-OBJECTED-TO PROPOSED FACTUAL FINDINGS AND LEGAL CONCLUSIONS ACCEPTED BY THE DISTRICT JUDGE.

THUS DONE AND SIGNED at Alexandria, Louisiana, this 23rd day of April, 2013.



JAMES D. KIRK
UNITED STATES MAGISTRATE JUDGE